



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,557	07/17/2003	Michael Andrew Fischer	088245-2589	1331
23524 7590 08/17/2010 FOLEY & LARDNER LLP 150 EAST GILMAN STREET P.O. BOX 1497 MADISON, WI 53701-1497				
EXAMINER MOORE, IAN N				
ART UNIT 2491		PAPER NUMBER		
MAIL DATE 08/17/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL ANDREW FISCHER
and TIMOTHY GORDON GODFREY

Appeal 2009-006619
Application 10/621,557
Technology Center 2400

Before JOHN C. MARTIN, MAHSHID D. SAADAT, and KARL D.
EASTHOM, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304 or for filing a request for rehearing as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants appeal² under 35 U.S.C. § 134 from the rejection of claims 1-20. No other claims are pending. (App Br. 2.) We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

*The Disclosed Invention*³

The disclosed invention assigns addresses to stations in a local area network. (Spec. ¶ 11.) “Figure 5 depicts a flowchart of the operation of the illustrative embodiment of the present invention.” (*Id.* at ¶ 36.) In step 502, the Access Point receives a first frame that uses a first address as the address for a station. (*Id.* at ¶ Fig. 5.) In step 503, the Access Point assigns an association identifier to the station. (*Id.*) In step 504, the Access Point generates a second address based on a combination of the first address and the association address. (*Id.*) In step 505, the Access Point transmits a second frame to the station that includes the association identifier. (*Id.*) In step 509, the Access Point receives a frame that uses the second address as the address for the station. (*Id.*)

Exemplary claim 1 follows:

1. A method comprising:

receiving a first frame from a station in a local area network, wherein said first frame uses a first address as a medium access control address for said station in said local area network;

² Appellants’ Amended Appeal Brief (filed June 20, 2008) (“App. Br.”) and Reply Brief (filed September 15, 2008) (“Reply Br.”), and the Examiner’s Answer (mailed July 15, 2008) (“Ans.”) are referenced here.

³ The ensuing description constitutes findings of fact.

assigning an association identifier to said station;
transmitting a second frame to said station via said local area network,
wherein said second frame comprises said association identifier and uses said
first address as the medium access control address for said station in said
local area network; and
receiving a third frame from said station via said local area network,
wherein said third frame uses a second address, rather than said first address,
as the medium access control address for said station in said local area
network;
wherein said second address is a combination of (1) a portion of said
first address and (2) at least a portion of said association identifier.

The Examiner relies on the following prior art references:

Cannon	US 6,067,444	May 23, 2000
--------	--------------	--------------

Donaghey	US 6,804,232 B1	Oct. 12, 2004
----------	-----------------	---------------

The Examiner rejected claims 1-3, 5-8, 10-13, 15-18, and 20 under 35
U.S.C. § 102(e) as being anticipated by Donaghey.

The Examiner rejected claims 4, 9, 14, and 19 as obvious under 35
U.S.C. § 103(a) based on Donaghey and Cannon.

ISSUE

Appellants' responses to the Examiner's positions present the
following issue:

Did the Examiner err in finding that Donaghey discloses a second
address for a station "wherein said second address is a combination of (1) a
portion of said first address and (2) at least a portion of said association

identifier,” as recited in claim 1, and as similarly recited in claims 6, 11, and 16?

FINDINGS OF FACT (FF)

Donaghey

1. Donaghey discloses a network including a hub device and peripheral devices such as a Personal Electronic Accessory (PEA).

(Abstract; col. 3, ll. 28-33.)

2. Communication occurs over streams:

The Hub 110 and PEAs 120 communicate using multiplexed communication over a predefined set of streams. Logically, a stream is a one-way communications link between one PEA 120 and its Hub 110. Each stream has a predetermined size and direction. The Hub 110 uses stream numbers to identify communication channels for specific functions (e.g., data and control).

(Col. 3, ll. 55-61.)

3. The MAC address and stream number are used to control communication:

The Hub 110 combines a MAC address and a stream number into a token, which it broadcasts to the PEAs 120 to control communication through the network 100. The PEA 120 responds to the Hub 110 if it identifies its own MAC address or the Hub MAC address in the token and if the stream number in the token is active for the MAC address of the PEA 120.

(Col. 3, l. 66 – col. 4, l. 5.)

4. “Each token 640 (FIG. 6) transmitted by the Hub 110 in a token broadcast 820 includes a MAC address 610 (FIG. 6) and a stream number 620 for the data buffer 630 transfer that follows. The MAC address 610 and stream number 620 in the token 640 together specify a particular PEA 120 to transmit or receive data . . .” (Col. 8, ll. 13-19.)

PRINCIPLES OF LAW

“It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. . . .” *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986). The Examiner bears an initial burden of factually supporting an articulated rejection. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). On appeal, Appellant may rebut the Examiner’s findings and reasoning with opposing evidence or argument. Failure to do so may constitute a waiver of potential arguments. *See Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (citation omitted) (“If an appellant fails to present arguments on a particular issue — or, more broadly, on a particular rejection — the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection.”); *Hyatt v. Dudas*, 551 F.3d 1307, 1313-14 (Fed. Cir. 2008) (the Board may treat arguments appellant failed to make for a given ground of rejection as waived); 37 C.F.R. § 41.37(c)(1)(vii).

ANALYSIS

Issue - Claims 1 - 20

Appellants’ arguments (App. Br. 6-19; Reply Br. 2-3) that Donaghey fails to anticipate independent claims 1, 6, 11, and 16 are not persuasive. Although Appellants nominally argue independent claims 6, 11, and 16 separately from claim 1 (App. Br. 9-19), the arguments presented for those claims are substantially the same as those presented for claim 1. Accordingly, claims 1, 6, 11, and 16 constitute a single claim grouping with

claim 1 selected as representative of this group. *See* 37 C.F.R.
§ 41.37(c)(1)(vii).

Appellants assert that Donaghey does not disclose a second address for the station “wherein said second address is a combination of (1) a portion of said first address and (2) at least a portion of said association identifier,” as recited by claim 1. (App. Br. 6-7.)

To support the assertion, Appellants argue that the stream number disclosed in Donaghey “is assigned to the communication received or sent from the PEA; the stream number is not assigned to the PEA itself” (*Id.* at 7.) But as found by the Examiner, the associated identifier of Donaghey is, in fact, assigned to the station (*i.e.*, a PEA). (Ans. 13.) In particular, a stream is a one-way communications link between a PEA and the Hub. (FF 2.) Each message transmitted by the Hub includes a token that includes both a MAC address and a stream number. (FF 4.) “The MAC address 610 and stream number 620 in the token 640 together specify a particular PEA 120 to transmit or receive data” (*Id.*) Indeed, a PEA responds to a message from the Hub only if the stream number in the message’s token is active in the PEA (*e.g.*, is assigned to the PEA). (FF 3.)

Appellants also argue that “[a]ccording to the instant claim, the association identifier is assigned to the *station* - it identifies the station.” (Reply Br. 2.) But claim 1 does not require the association identifier to identify the station. Rather, claim 1 requires only the assignment of “an association identifier to said station.” Accordingly, Appellants’ argument is not commensurate with the scope of claim 1.

Based on the foregoing discussion, we will sustain the Examiner’s rejection of independent claims 1, 6, 11, and 16, and the rejections of claims

2-5, 7-10, 12-15, and 17-20, dependent therefrom, because Appellants did not present separate patentability arguments with respect to these dependent claims. *See In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987) (grouping together unargued claims rejected over different references).

CONCLUSION

The Examiner did not err in finding that Donaghey discloses a second address for a station “wherein said second address is a combination of (1) a portion of said first address and (2) at least a portion of said association identifier,” as recited in claims 1, 6, 11, and 16.

DECISION

We affirm the Examiner’s decision rejecting claims 1-20.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136. *See* 37 C.F.R. § 1.136(a)(1)(v) (2010).

AFFIRMED

rvb

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994